

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SENIOR LIVING PROPERTIES LLC)	
TRUST,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
VS.)	3:04-CV-0816-G
)	
CLAIR ODELL INSURANCE AGENCY)	
LLC d/b/a CLAIR ODELL GROUP,)	
ET AL.,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Before the court is the motion of the defendants Clair Odell Insurance Agency, LLC and Mellon Insurance Agency, Inc. (collectively, “COG”) for leave to file a second motion for summary judgment. For the reasons stated below, the motion is denied.

Local Civil Rule 56.2(b) provides that “[u]nless otherwise directed by the presiding judge, or permitted by law, a party may file no more than one motion for summary judgment.” L.R. N.D. Tex. 56.2(b). On March 1, 2005, COG filed a motion for summary judgment which was granted in part and denied in part by the

court on June 7, 2005. COG seeks leave of this court to file a second motion for summary judgment. The court will grant such a motion only if COG shows good cause to do so. *See* FED. R. CIV. P. 16(b).

In support of its motion for leave, COG asserts several defenses to the claims asserted against it by the plaintiff Senior Living Properties, L.L.C. Trust (the “SLP Trust”). Defendants Clair Odell Insurance Agency, LLC and Mellon Insurance Agency, Inc.’s Opposed Motion for Leave to File Second Motion for Summary Judgment at 2. Additionally, COG argues that “[s]ince a jury trial of this case will consume over two weeks of this Court’s limited resources, and the Motion for Summary Judgment asserts defenses that are dispositive of the entire case, consideration of the Motion will further the interests of judicial economy. . . .” *Id.* COG also cites the “considerable expense to complete discovery of all fact and expert witnesses to prepare for trial.” *Id.*

This case is set for trial on the court’s four-week docket beginning October 3, 2005. Amended Order Establishing Schedule and Certain Pretrial Requirements ¶ 2. The deadline to complete discovery in this case is September 9, 2005. *Id.* ¶ 5. The SLP Trust argues that allowing another motion for summary judgment at this time will cause further delay in completing discovery and participating in court ordered mediation. Senior Living Properties, LLC Trust’s Response in Opposition to the Motion for Leave to File Second Motion for Summary Judgment of Defendants Clair

Odell Insurance Agency, LLC and Mellon Insurance Agency, Inc. at 3. The court agrees.

The defenses asserted by COG were available to it at the time it filed its initial motion for summary judgment, and such defenses will be available at the time of trial. The court has been quite accommodating to the parties in their requests for extensions of time and amendments to the court's schedule for this case. Allowing a second motion for summary judgment will likely result in further delay. The court is unwilling to allow such a delay considering the trial is just over two months away.

For the reasons above, COG's motion for leave to file a second motion for summary judgment is **DENIED**.

SO ORDERED.

August 5, 2005.



A. JOE FISH
CHIEF JUDGE